SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

MINUTES

June 5, 2009

The South Carolina Commission on Disabilities and Special Needs met on Thursday, June 5, 2009, at 9:30 AM at the Department of Disabilities and Special Needs Central Office, 3440 Harden Street Extension, Columbia, South Carolina.

The following were in attendance:

COMMISSION

Present:
Bobby Harrell, Chairman
Kelly H. Floyd
Susan Lait
Deborah McPherson
Nancy Banov
Rick Huntress (via Teleconference)

Absent:
Otis Speight, Secretary

DDSN Administrative Staff

Andy Laurent, State Director; Bill Barfield, Deputy State Director, Administration; David Goodell, Associate State Director, Operations; Kathi Lacy, Associate State Director, Policy; Linda Veldheer, Director of HASCI; Tana Vanderbilt, General Counsel; Kevin Yacobi, Director of Internal Audit; Tom Waring, Director, Budgeting Systems; Lois Park Mole, Director of Government and Community Relations

Guests

Charles Banov, M.D., Visitor; Michelle Schaeffer, York County DSN Board; Mary Poole, Executive Director; York County DSN Board; Mary Leitner, Executive Director, Richland-Lexington DSN Board; Richard Ferrante, USC-CDR; Craig Stoxen, SC Autism Society; Jay Altman, Executive Director, Chester-Lancaster County DSN Board; Beverly Brewer, Parent; Emma Forkner, State Director, DHHS; Jeff Stensland, DHHS; William Wells, DHHS; Sam

Waldrep, DHHS; Nikole Boland, DHHS; George Maky, DHHS; Bryan Kost, DHHS; Kendall Quinton, DHHS; Donna H. Thompson, Babcock Center; Nancy McCormick, P & A; Carolyn B. Brown, Guardian; Leanne Johnston, SCHSP; Angela Fender, Parent; Steven Fender, Jr., Consumer; Lillian Ohanuka, Sitter; Betty-Routh Steele, Saleeby Center, Parent; Crystal Ray, Family Connection; Ralph Courtney, Executive Director, Aiken County DSN Board; Mary Bennett, Parent; Dean Redd, Executive Director, Colleton County DSN Board; Brent Parker, Executive Director, Greenville County DSN Board; Joyce Davis, BIASC; Leanne Hopkins, Parent; Mildred Lilley, Parent; Marcella Ridley, Winston's Wish Foundation; Patricia Harrison; Stephen Ritter, Parent

News Release of Meeting

Mr. Bobby Harrell, Chairman, called the meeting to order.

Mr. Harrell read a statement of announcement about the meeting that had been mailed to the appropriate media, interested persons, and posted at the Central Office and on the website in accordance with the Freedom of Information Act.

Invocation

Mrs. Deborah McPherson gave the invocation.

Adoption of the Agenda

On motion of Mrs. Kelly Floyd, seconded by Mrs. Deborah McPherson and passed, the Commission approved the agenda for the meeting. (Attachment A)

Mental Retardation/Related Disabilities Waiver Renewal

Dr. Laurent stated the HASCI and PDD renewals would be discussed in detail at the June 18, 2009 Commission meeting. He then explained the history of the MR/RD waiver, how large budget reductions and one-time funds impact the waiver and the operational need to begin to cap waiver services. Dr. Laurent added one-time dollars can fund slots but cannot add and sustain additional services. He also stressed freezing slots can begin saving dollars immediately but to reduce waiver services takes a long time.

Dr. Laurent stated his observation from taking part in the public meeting that there is a communication problem and individuals do not know how to use the DDSN system. This is a concern and improvements need to be made.

Mrs. McPherson stated it appears DDSN is adding new slots in both waivers and this needs to be looked at. She also asked if capital improvement projects could be put off until DDSN is in a better economic position.

Mrs. Susan Lait inquired about federal provisions and extensions. Dr. Laurent said Ms. Emma Forkner can answer those questions and then he introduced Ms. Forkner, State Director of the SC Department of Health and Human Services. Mrs. Forkner distributed a handout consisting of her PowerPoint briefing concerning the Mental Retardation/Related Disabilities waiver renewal, a copy of the Extension Section of Version 3.5 HCBS Waiver Application Overview, and the SCDHHS Medical Care Advisory Committee agenda item. She then introduced DHHS staff members Sam Waldrep, Nikole Boland, and George Macky, who could also answer questions. Ms. Forkner explained the different roles and responsibilities for DHHS, DDSN and the Medical Care Advisory Committee and the development of the MR/RD waiver. (Attachment B)

Mrs. Lait made a motion to limit Ms. Forkner's briefing to 5 minutes in order for other staff to answer questions. The motion was seconded by Mrs. Nancy Banov. Discussion followed. By a vote of 4-2 in favor, the motion was adopted.

Ms. Forkner continued her briefing highlighting the waiver comparison chart and the waiver renewal proposal. In some cases individuals will be able to receive services through the Medicaid State Plan. Ms. Forkner then went over the MR/RD waiver summary by expenditure stating that the changes proposed reflect areas where there is less spending on services that will be cut or the least amount of services used. An agency is required by CMS to show how much state funding is available to use as state match and shape the waiver to that.

Mrs. Lait requested an answer to her earlier question concerning an extension of the waiver. She also asked Ms. Forkner if she could come back to provide extensive training. Ms. Forkner said she would and then asked Ms. Boland to explain CMS' waiver extension process and requirements. Ms. Boland stated that a state's Medicaid agency can ask CMS for an extension but only in very limited circumstances and CMS does not have to approve the extension.

Mrs. McPherson asked if it is an option to combine the Community Supports waiver and the MR/RD waiver. Mr. Waldrep stated it could be done but there is a short window of time because DHHS has already received verbally the unofficial word of approval for the Community Supports waiver and the official letter is expected in two days. He stated that DHHS would have to ask for a 90-day extension and even if granted, what Mrs. McPherson has proposed is not achievable in 90 days. Discussion continued.

Mrs. Lait asked if DDSN could pursue both the renewal of the MR/RD waiver and the combining of the Community Supports Waiver with the MR/RD waiver simultaneously and Ms. Boland said yes but stressed meeting the June 25 deadline or the federal funding is jeopardized.

Mrs. Nancy Banov made a motion for Dr. Laurent to request that the Department of Health and Human Services request a 90-day extension for the existing MR/RD waiver to the CMS regional office. This motion was seconded by Mrs. Lait. Discussion followed concerning options of submitting existing waiver without changes, making other changes and amendments. Mr. Waldrep stated that the more complicated the application and the more changes made increases the likelihood of CMS requesting additional information and delaying their decisions/approval. He stated amendments can be made after CMS approval. Ms. Forkner stated the need for a decision. She restated there cannot be a deficit and the waiver has to fit state appropriations. Also federal funds will be affected if the waiver renewal is not submitted on time. Dr. Laurent would have to justify to the MCAC to formally address a request for extension or other changes.

Mrs. Banov stated she feels no committee currently exists to look for cost savings. Ms. Floyd stated a concern that if the MR/RD waiver is not reduced, budget cuts in other services would have to occur. Mr. Barfield explained that some capital projects previously approved had been delayed indefinitely and that some waiver slots exist without any funding attached to them.

Mrs. McPherson stated she feels people are not using attendant care and other current waiver services because they are not aware of them and another concern is that Companion and Attendant Services are not covered by another Medicaid program.

Mrs. Banov repeated her motion to have Dr. Laurent request DHHS request a 90-day extension for the existing MR/RD waiver to the CMS regional office. The motion was adopted 4 to 1.

Mrs. Banov made a motion to draft new waiver in new form and put in new figures for a backup plan. Ms. Forkner stated that DHHS staff would not be able to meet the June 25, 2009 deadline. Discussion followed. Mr. Rick Huntress requested a new motion but was denied because the Commission was still debating the current motion by Mrs. Banov. Mrs. Lait made a secondary motion to Mrs. Banov's motion that the existing waiver be moved into the new template if we are going to submit amended waiver. Dr. Laurent stated we need to meet on what changes we can live with. Mrs. McPherson stated the public needs to be involved with the changes and Mr. Harrell agreed.

Motions by Mrs. Banov and Mrs. Lait were then withdrawn.

Mr. Huntress moved that, due to time constraint, submit the waiver with proposed changes and Commission will work on amendments to restore services based on available funding for the waiver to be submitted by October 1. The motion was seconded by Mrs. Floyd and passed by the Commission.

Mrs. McPherson requested a copy of the actual waiver document for the Commission to read. Mr. Waldrep stated he would provide the requested document.

Mrs. Banov requested Dr. Laurent provide copies of a detailed budget and to form an ad hoc committee to look at cost savings and to move funds from other areas to services. Mr. Harrell stated he will set up an ad hoc committee and reminded them the election of new officers would be held at the June 18, 2009 Commission meeting.

Ms. Forkner stated she will expect a letter from DDSN which she will then forward to CMS. She stated it could be 90 days before hearing from them.

Mrs. Banov requested the Commission be kept in the loop with DHHS, CMS and others.

Mr. Harrell stated they must have communication and have the public involved with waiver processes. Mrs. McPherson stated the public needs to be involved and does not want information going to the MCAC before the Commission and public are informed. She stated she understood from Mr. Waldrep that the MCAC can be emailed and take action between their quarterly meetings. Ms. Forkner stated she does not normally and prefers not to email information to the MCAC for a vote.

Mr. Harrell stated the communication problem would be fixed. He also stated he would call for an ad hoc committee to move in the direction for the consumers.

State Director Report/Announcements

Dr. Laurent asked the Commission members to let him know of any agenda items for the June 18, 2009 meeting and a memo and form were placed in their folders.

Adjournment

On motion of Mrs. Floyd, seconded by Mrs. Lait and passed, the Commission meeting was adjourned.

Submitted by,

Sandra Delaney

Approved:

Dr. Otis Speight
Mr. Bobby Harrell

SOUTH CAROLINA COMMISSION ON DISABILITIES AND SPECIAL NEEDS

A G E N D A

South Carolina Department of Disabilities and Special Needs
3440 Harden Street Extension
Conference Room 251
Columbia, South Carolina

June 5, 2009 **9:30 AM**

1. Notice of Meeting Statement
2. Invocation
3. Introduction of Guests
4. Adoption of Agenda
5. Mental Retardation/Related Disabilities Waiver Renewal
6. Next Regular Meeting Date – June 18, 2009

PLEASE SILENCE CELL PHONES DURING THE MEETING. THANK YOU.

Renewal of the Mental Retardation and Related Disabilities §1915(c) Home and Community-Based Services (HCBS) Waiver

SC Department of Disabilities and Special Needs
(DDSN)
Commission Meeting
June 5, 2009

What is a Waiver?

A Medicaid program of services under the authority of the Social Security Act which permits a State to waive certain federal requirements in order to furnish home and community-based services for Medicaid beneficiaries

Waiver Framework

The Centers for Medicare and Medicaid Services (CMS) is the federal authority that permits a state to offer waiver services to individuals who:

- Require an institutional level of care
- Are members of a specific target group
- Meet Medicaid financial eligibility criteria
- Require one or more waiver services
- Exercise freedom of choice by choosing to enter the waiver

Waiver Administration
Department of Health and Human Services (DHHS)

- Retain ultimate authority and accountability for the waiver within the constraints of federal regulations
- Review and approve policies, rules, and regulations
- Exercise administrative oversight of waiver operations
- Prepare & submit the waiver renewal
- Required to seek advice of DHHS Medical Care Advisory Committee

Waiver Operations
Department of Disabilities and Special Needs (DDSN)

- Designated State operating agency for the MR/RD waiver with responsibility for the day to day waiver functions

- Provides the portion of State funding, to be matched with the federal share, for the provision of waiver services

- Size of waiver program is dependent on the amount of state appropriations allocated to DDSN

- SFY 2010 State agency budget allocations have been markedly reduced

Waiver Operations
DDSN Responsibilities, continued

- Perform annual ICF/MR Level of Care determinations
- Develop and review annual Plans of Service
- Document participant Freedom of Choice for waiver entry
- Assure health and welfare
- Monitor waiver services for cost effectiveness
- Perform quality assurance activities

Development of the MR/RD Waiver Renewal

- The administrative (DHHS) and operational (DDSN) agencies collaborate to develop a waiver within federal guidelines
- CMS requires the State submit waiver documents to CMS for review and approval at least **90 days** prior to the waiver expiration date.
- Waivers that have not been formally approved by CMS by the end of the waiver period automatically expire and are no longer eligible for federal funding.
- The MR/RD waiver expires September 30, 2009.
- DHHS must electronically submit the MR/RD waiver by June 25, 2009.
- Waiver renewal action was approved by MCAC May 19, 2009.

Development of the MR/RD Waiver Renewal, continued

- CMS requires States to submit an evidentiary assessment of its quality management oversight of the waiver 18 months before a waiver expires.
- DHHS submitted this detailed assessment to CMS on June 12, 2008; approved on Sept 19, 2008.
- DHHS & DDSN staff meet regularly to review wavier application in detail – about 200 pages
- Actions taken to deal with state match limitations
    - Survey of waiver recipients
    - Consideration of whether or not a waiver service was already a state plan service
    - Look for least effect that protects medical necessity

MR/RD waiver renewal complies with the Provisions of the American Recovery and Reinvestment Act of 2009

- The State may not apply eligibility standards, methodologies, or procedures under the State Plan or any waiver that are more restrictive than those that were in effect as of July 1, 2008.

- Prohibited activities that may restrict waiver eligibility include: changes in levels of care determinations or medical necessity; reductions in waiver capacity; reductions in waiver slots; and adjustments in cost neutrality calculations that result in individuals being dropped from waiver coverage.

- CMS has not issued any guidance to States that indicate reductions in services are included in this interpretation.

The Olmstead Decision in relation to the MR/RD waiver renewal

- The State must be mindful of the implications of this Supreme Court decision in the design of its home and community-based service system.

- Specifically, the State must assure that services provided under 1915(c) waivers are adequate to address the needs of a majority of the recipients.

- Additionally, the State should look at the length of time a recipient remains on a waiting list prior to receiving waiver services and determine if that wait is reasonable.

Waiver Comparison

2007-2008 CMS 372 Waiver Report

Waiver	MR/RD	HASCI	PDD	HIV/AIDS	Vent	C Choices
Operations	DDSN	DDSN	DDSN	CLTC	CLTC	CLTC
Undup # served	6,054	661	333	1,151	47	14,603**
Budgetary waiver cap	5,800	750	550	none	none	12,000**
Total waiver exp	$222M	$18M	$3M	$3M	$1M	$114M
Avg waiver cost pp/per YEAR	$36,693	$27,434	$10,026	$3,204	$23,667	$7,838
Avg total costs (waiver & other)	$44,330	$37,518	$14,939	$13,124	$50,497	$9,240
# waiver services	25	19	2	9	9	14
Waiting list	1,360	297	419	0	0	2,335

*Excludes Medically Complex Children's (MCC) waiver (began 1/1/09), Alternative to Psychiatric Residential Treatment Facilities (PRTF) demonstration waiver, and the DDSN Communities Support (CS) waiver (pending CMS approval)

**Community Choices waiver includes 334 individuals diagnosed with head or spinal cord injuries, and 743 individuals diagnosed with mental retardation or related disabilities

MR/RD Waiver Renewal Proposal

Waiver Services Without Change

- Adult day health care (ADHC)
- Private vehicle modifications
- ADHC Transportation
- Behavioral support services
- Employment services
- Prescribed drugs
- ADHC Nursing
- Community services
- Day activity
- Adult dental services
- Residential habilitation
- Career preparation
- Psychological service
- Support center services

Waiver Services with Limits

- Environmental modifications
- In-home respite
- Specialized med equip, supplies and assistive tech
- Nursing
- Personal care II

Waiver Services Removed or Replaced

- Physical therapy
- Occupational therapy
- Speech, language pathology
- Day habilitation (replaced w/Day activity)
- Supported employment (replaced w/Employment services)
- Prevocational habilitation (replaced w/Career preparation)
- Audiology
- Adult vision
- Adult companion
- Adult attendant care
- Personal care I

MR/RD Waiver Summary by Expenditure

Waiver service		Expenditures	Undup # served
Residential habilitation	No Change	$ 164,022,950	3,454
Prevocational Services	Replace w/Career Preparation	$ 18,903,630	2,252
Day habilitation	Replace w/Day Activity	$ 13,947,910	1,681
Personal care II	Limit to 28 hrs/wk	$ 10,322,259	653
Specialized medical equip & supplies	Limits on amounts	$ 4,868,003	2,411
Respite care	Limit to 32 hrs/mon	$ 4,245,115	900
Adult day health care (ADHC)	No Change	$ 1,405,119	192
Adult skilled nursing	Limit to 56hr/wk LPN; 42 hr/wk RN	$ 1,134,761	35
Prescribed drugs	No Change	$ 1,019,285	1,141
Adult dental	No Change	$ 668,806	3,164
Adult companion services	Remove	$ 587,416	124
Supported employment services	Replace w/Career Preparation	$ 297,304	281
Environmental adaptations/Home modifications	Limit to $5000 per lifetime	$ 193,454	59
ADHC Transportation	No Change	$ 132,627	110
Personal care I	Remove	$ 114,666	38
Vehicle modifications	No Change	$ 107,009	28
Behavior support services	No Change	$ 32,640	37
Adult vision services	Remove	$ 30,148	786
Adult speech, hearing and language	Remove	$ 27,663	38
Adult physical therapy	Remove	$ 27,390	23
ADHC Nursing	No Change	$ 19,215	13
Psychological services	No Change	$ 18,210	29
Adult occupational therapy	Remove	$ 14,843	14
Adult audiology	Remove	$ 1,846	22
Adult attendant care	Remove	$ <5,000	3

MR/RD Waiver Summary by Utilization

Waiver service		Expenditures	Undup # served
Residential habilitation	No Change	$ 164,022,950	3,454
Adult dental	No Change	$ 668,806	3,164
Specialized medical equip & supplies	Limits on amounts	$ 4,868,003	2,411
Prevocational Services	Replace w/Career Preparation	$ 18,903,630	2,252
Day habilitation	Replace w/Day Activity	$ 13,947,910	1,681
Prescribed drugs	No Change	$ 1,019,285	1,141
Respite care	Limit to 32 hrs/month	$ 4,245,115	900
Adult vision services	Remove	$ 30,148	786
Personal care II	Limit to 28 hrs/month	$ 10,322,259	653
Supported employment services	Replace w/Employment Services	$ 297,304	281
Adult day health care (ADHC)	No Change	$ 1,405,119	192
Adult companion services	Remove	$ 587,416	124
ADHC Transportation	No Change	$ 132,627	110
Environmental adaptations/Home modifications	Limit lifetime cap to $5000	$ 193,454	59
Personal care I	Remove	$ 114,666	38
Adult speech, hearing and language	Remove	$ 27,663	38
Behavior support services	No Change	$ 32,640	37
Adult skilled nursing	Limit to 56hr/wk LPN; 42 hr/wk RN	$ 1,134,761	35
Psychological services	No Change	$ 18,210	29
Vehicle modifications	No Change	$ 107,009	28
Adult physical therapy	Remove	$ 27,390	23
Adult audiology	Remove	$ 1,846	22
Adult occupational therapy	Remove	$ 14,843	14
ADHC Nursing	No Change	$ 19,215	13
Adult attendant care	Remove	$ <5,000	3

Issues

- Can the deadline for submission be extended?
- Is a survey of waiver recipients a good way to get input on which services to modify?
- Do waiver expenditures have to fit within the state appropriations?
- Are federal funds at risk?

accomplished by submitting a renewal application for the waiver that would continue and allowing the other program to expire. The state should alert CMS when it plans to follow this course. In addition, when the two waivers cover different services, CMS may require the state to prepare and submit a transition plan if the effect of combining the waivers would be to reduce the services provided in one or both waivers.

If the waivers have different expiration dates, the state should notify CMS that it intends to combine the two programs, and seek instructions.

- **Converting a Model Waiver to a Regular Waiver.** A waiver that has been approved as a "model waiver" may be converted to a regular waiver when the state decides to serve more than 200 individuals at any point in time. The conversion of a model waiver to a regular waiver is not considered a request for a new waiver. The conversion may be accomplished at the time of waiver renewal or by the submission of a waiver amendment.
- **Participant Limit Reductions.** When the state submits a request to replace an existing waiver, renew an approved waiver or amend an approved waiver that would reduce the number of unduplicated individuals who may be served in the waiver, it must inform CMS whether the reduced participant cap would have an adverse impact on current waiver participants, as provided in CMS Olmstead Letter #4 (included in Attachment D). When a request reduces the participant limit, the state may:
  - Provide an assurance that, if the waiver request is approved, there will be sufficient service capacity to serve at least the number of current participants enrolled in the waiver as of the effective date of the new waiver, renewal or amendment. That is, the lower participant limit has the effect of eliminating unassigned "slots."
  - Assure CMS that no current waiver participants will be removed from the program or institutionalized inappropriately due to the lower participant limit. For example, the State may achieve a reduction through attrition rather than terminating current waiver participants.
  - Provide an assurance and methodology demonstrating how individuals currently served by the waiver will not be adversely affected by the lower participant limit. For example, if the waiver is no longer required because the principal service(s) provided through the waiver have been added to the State plan, the state may specify a method to transition waiver participants to the State plan service. Individuals subject to removal from a waiver are entitled to the opportunity to request a Fair Hearing under Medicaid law.
  - Provide a plan whereby affected individuals will transition to other HCBS waivers without loss of Medicaid eligibility or loss of services. Any loss of services would be subject to notice of Medicaid fair hearing rights.
  - Provide for other means to assure the health and welfare of affected individuals, including arranging for services that may be available under the State plan or through other programs.

Extensions

CMS will consider requests for temporary 90-day waiver extensions only in very limited circumstances. A temporary extension permits the state to continue to operate an approved waiver beyond its original expiration date. Extensions are not granted solely for administrative convenience (e.g., to give the state extra time to prepare a waiver renewal request). Extensions may be granted for various reasons:

- The state wants to align the period of the waiver to a state fiscal year;
- The state intends to combine the waiver with another waiver that is under review but has

not been approved by CMS;

- The state plans to terminate a waiver and requires additional time to phase out the waiver in an orderly fashion;
- CMS has identified through its review of the waiver renewal application that there are substantial problems in the waiver's design that cannot be rectified by the state prior to the expiration of the waiver; or,
- The state requires additional time to satisfactorily resolve quality or financial issues identified by CMS during RO waiver review.

A state must formally submit a request for an extension in writing to CMS in advance of the approved waiver's expiration date. Extension requests are reviewed by CMSO/DEHPG, which makes the determination whether to approve the request. Extensions are considered on a case-by-case basis. When a request for extension arises out of the need to address significant waiver design problems identified by CMS during its review of the waiver renewal application or rectify quality or financial issues previously identified by the RO, CMS will not approve the temporary extension request unless and until the state submits a satisfactory action plan with specific milestones to resolve the problems. CMS also will require the state to report its progress in implementing the action plan during the extension period. Temporary extensions are only granted for a period of up to 90-days.

All or part of the temporary extension approved by CMS may be subsumed into the period of the waiver renewal. For example, if the waiver was due to expire June 30 but a 90-day temporary extension was approved through September 30, the state may request that the renewal be effective on July 1 or October 1.

Policies Concerning Waiver Amendments

Amendments to an approved waiver may be submitted at any time. As is the case with new or renewal waiver applications, CMS has 90 calendar days within which to approve or disapprove the amendment or formally request additional information in order to address problems that have been identified in the amendment request. When an RAI is issued concerning an amendment, the clock is stopped and only restarted (with a full 90-day clock) once the state responds to the RAI.

Whenever there is a change that affects an element of the approved waiver, the state must submit an amendment to the waiver. The approved waiver must be kept in synchronization with state waiver policies, practices, procedures and operations. For example, if a state wants to alter a limit that it has imposed on the amount, frequency or duration of a waiver service, an amendment must be submitted. The revised waiver application is designed to minimize to the extent possible the need to submit amendments. For example, the revised application does not require states to submit (and thereby make part of the application) various waiver forms. Hence, states no longer will have to submit a "technical" amendment when, for example, the service plan form is modified.

States also are alerted that CMS no longer provides for the practice of a state's notifying CMS by letter that it is making budget-driven changes to the waiver participant cap. All changes in the approved waiver must be made via the submission of a waiver amendment. For example, if a state finds it necessary to reduce the waiver participant cap because state appropriations will not support the number of persons specified in the waiver, the state must submit an amendment to reduce the participant cap specified in Appendix B-3 of the application.

A state may propose that an amendment take effect prospectively on some future date. An amendment also may be made retroactive to the first day of a waiver year (or another date after the first day of the waiver year) in which the amendment is submitted unless the amendment

South Carolina Department of Health and Human Services
Medical Care Advisory Committee
Item for Committee Advisement

PREPARED BY: Kara Lewis

PRESENTED BY: Sam Waldrep

DATE: 5/19/09

SUBJECT: Renewal of Mental Retardation/Related Disabilities (MR/RD) Waiver

OBJECTIVE: To submit to the Centers for Medicare and Medicaid Services (CMS) a 5-year renewal of the Medicaid home and community-based waiver serving individuals with mental retardation and related disabilities.

BACKGROUND: The Department of Health and Human Services (DHHS) and the Department of Disabilities and Special Needs (DDSN) formed a partnership in 1991 to develop community-based services through the MR/RD waiver. This waiver is designed to prevent or delay institutionalization for waiver clients. DHHS provides administrative oversight for the waiver while DDSN is responsible for day-to-day operations. Currently the MR/RD waiver serves approximately 5,700 individuals with a waiting list of 1,400. The waiver is due to expire on September 30, 2009, and DHHS must submit this renewal application in June 2009, to allow for the CMS mandatory 90 day review period.

Due to the state's budget situation, DDSN opted to make several changes to the waiver program. DHHS and DDSN have worked together for many months to consider possible changes administratively allowed within federal regulations. To obtain public input, DDSN conducted a survey of waiver participants, parents and other interested stakeholders, seeking recommendations for changes to the MR/RD waiver. This information guided DDSN toward making necessary budgetary adjustments and includes the following: 1) continuation of core services without changes; 2) placing limits on services; 3) elimination of low utilization services; and 4) as a minor technical change, the state is separating the coverage of Personal Emergency Response Systems (PERS) from Specialized Medical Equipment, Supplies and Assistive Technology and therefore adding PERS as a separate service in this waiver. The proposed changes are listed below.

<u>Core services to continue unchanged</u>:

Adult Day Health Care
Adult Day Health Care- Transportation
Psychological Services
Day Activity
Community Services
Support Center Services
Behavior Support Services
Adult Day Health Care-Nursing
Residential Habilitation
Private Vehicle Modifications
Career Preparation
Employment Services
Adult Dental Services
Prescribed Drugs

Services for which limitations will be necessary:

- *Environmental Modifications*: lower the lifetime cap from $7,500 to $5,000;
- *Specialized Medical Equipment, Supplies and Assistive Technology*:
  a) lower the monthly limits of diapers, wipes and underpads from up to 3 cases per month to 2 cases per month for each product;
  b) lower the monthly limit of liquid nutrition (for those without a feeding tube) from up to 3 cases per month to 2 cases per month;
  c) lower the limit and cost per wheel chair to $8,000 total and allow only 1 chair every 5 years (previously not specified in waiver);
- *Nursing*: limit services up to 56 hours per week for LPN and 42 hours per week for RN (previously not specified in waiver);
- *In-home Respite*: limit service up to 32 hours per month (previously not specified in waiver). (No change with ICF/MR respite);
- *Personal Care II*: limit service up to 28 hours per week (previously not specified in waiver).

Services to be removed:

Physical Therapy
Occupational Therapy
Speech Language pathology
Day Habilitation (replaced w/Day Activity)
Supported Employment (replaced w/Employment Services)
Prevocational Habilitation (replaced w/Career Preparation)
Audiology
Adult Vision
Adult Companion
Adult Attendant Care
Personal Care I

Service to be added:

Personal Emergency Response System (PERS)

BUDGETARY IMPACT: DDSN is responsible for the state match portion of operating expenditures. For SFY 07-08, waiver expenditures totaled approximately $242 million.

EXPECTED OUTCOMES: The waiver renewal will allow DDSN to continue serving the client population in a cost-effective manner.

EXTERNAL GROUPS AFFECTED: MR/RD waiver individuals will continue to receive home and community-based long-term care services. Medicaid enrolled/contracted providers will continue to receive reimbursement for waiver services provided in accordance with policy.

RECOMMENDATION: Submit the MR/RD waiver to CMS for a 5-year renewal period.

EFFECTIVE DATE: October 1, 2009